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2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA

4 * * *

5 DON SAVAGE,

6 Plaintiff,

7 v.

8 ARANAS, et al.,

9 Defendant.

Case No. 3:17-CV-0612-MMD-CLB

REPORT AND RECOMMENDATION OF
UNITED STATES MAGISTRAGE JUDGE¹

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11 Before the court is Plaintiff's failure to comply with Local Rule ("LR") IA 3-1
12 requiring plaintiff to change his address.

13 On April 13, 2021, the scheduling order was returned from Ely State Prison ("ESP")
14 as undeliverable. (ECF No. 51). The docket entry noted that Plaintiff was being
15 transferred the following day to Southern Desert Correctional Center ("SDCC"). (*Id.*) On
16 May 18, 2021, court's minute order ECF No. 56 was returned as undeliverable from SDCC
17 with a handwritten note that indicated Plaintiff was paroled from SDCC on April 23, 2021.
18 (ECF No. 57).

19 The court issued an order requiring Plaintiff to update his address by June 24,
20 2021. (ECF No. 58). Plaintiff was cautioned that his failure to do so would result in a
21 dismissal of this action. (*Id.*) This order was also returned as undeliverable from SDCC
22 (ECF No. 59). To date, Plaintiff has not filed a notice of change of address with the court.

23 LR IA 3-1 provides that the failure to "immediately file with the Court written
24 notification of any change of address . . . may result in dismissal of the action"

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27 ¹ This Report and Recommendation is made to the Honorable Miranda M. Du,
28 United States District Judge. The action was referred to the undersigned Magistrate
Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4.

1 Prior to dismissal for failure to follow local rules, the court must consider: "(1) the
2 public's interest in expeditious resolution of litigation; (2) the court's need to manage its
3 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition
4 of cases on their merits; and (5) the availability of less drastic sanctions." *Carey v. King*,
5 856 F.2d 1439, 1440 (9th Cir. 1988) (quoting *Henderson v. Duncan*, 779 F.2d 1421, 1423
6 (9th Cir. 1986)). This litigation cannot proceed or be decided on the merits if the court
7 and Defendants cannot contact Plaintiff, nor should the court or Defendants be required
8 to continue to try to resolve the case without the Plaintiff's participation. All five factors
9 clearly favor dismissal of this case.

10 Based on the foregoing and for good cause appearing, the court recommends that
11 this case be dismissed based upon Plaintiff's failure to notify the court of his change of
12 address pursuant to LR IA 3-1.

13 The parties are advised:


14 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of
15 Practice, the parties may file specific written objections to this Report and
16 Recommendation within fourteen days of receipt. These objections should be entitled
17 "Objections to Magistrate Judge's Report and Recommendation" and should be
18 accompanied by points and authorities for consideration by the District Court.

19 2. This Report and Recommendation is not an appealable order and any notice
20 of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District
21 Court's judgment.

22 RECOMMENDATION

23 IT IS THEREFORE RECOMMENDED that this action be **DISMISSED** for Plaintiff's
24 failure to comply with LR IA 3-1.

25 DATED: June 28, 2021.

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28 UNITED STATES MAGISTRATE JUDGE